

IN THE CIRCUIT AND SUPERIOR COURTS OF NOBLE COUNTY

STATE OF INDIANA

AMENDED NOTICE OF PROPOSED LOCAL RULE AMENDMENT TO LR57AR1-1
CONCERNING THE TRANSFER OF CASES AND CASELOAD ALLOCATION PLAN
AND REQUEST FOR SUPREME COURT APPROVAL

The Noble Circuit Court and the Noble Superior Courts propose to amend LR57-AR1-1, the rule to equalize caseload distributions, subject to the approval of the Indiana Supreme Court, and to amend LR57-CR00-7, concerning Criminal Discovery.

Comments may be made until September 1, 2008 to The Honorable David G. Laur, Judge, Noble Circuit Court, at 101 N. Orange Street, Albion, IN 46701-1095, or by email at circuit@ligtel.com.

These rules shall be effective January 1, 2009, subject to approval by the Indiana Supreme Court.

DATED this 29th day of July, 2008.

/S/
Judge David G. Laur
Noble Circuit Court

_____/S/_____
Judge Michael J. Kramer
Noble Superior Court

_____/S/_____
Judge Robert E. Kirsch
Noble Superior Court

LR57-AR 1-1**Transfer of Cases and Caseload Allocation Plan**

(A) Pursuant to I.C. 33-5-37.5-13, a case may be transferred to another court within Noble County with the consent of the receiving court. Additionally, pursuant to I.C. 33-5-37.5-14, a judge of a court in Noble County may sit as judge of the Noble Circuit Court or Noble Superior Courts in any matter as if the elected Judge of that court with the consent of the judge of that court. Additionally, each judge may sit in the stead of the other judges of the courts in Noble County.

~~(B) Although no disparity in caseloads among the court or Judges of Noble County presently exists sufficient to require the transfer of cases or Judges among the Courts of Noble County, the Judges of Noble County shall meet at least once each year to review the workload and caseload of each Judge and Court transfer such cases or Judges among the Courts as shall equalize the workload of each of the Judges of Noble County. (This is already being done on a frequent but informal basis to equalize caseloads and most efficiently move cases through the Noble County Court system.)~~

(B) Criminal Cases:

1. Criminal cases shall be filed as assigned under LR57 CR 2.2-1.

(C) Civil Cases:

1. All AD, AH, ES/EU, GU, TR, and pro se DR case types shall be filed in Circuit Court.

2. All JD, JS, JP, JM, and MH case types shall be filed in Superior Court I.

3. All SC, JC, and SC case types shall be filed in Superior Court II.

LR57-CR 00-7**Criminal Discovery:**

In all criminal felony and misdemeanor cases, ~~the~~ reciprocal pretrial discovery shall be available to both the State of Indiana and the Defendant upon the filing of a ~~without~~ formal written request by either party, and such discovery shall be subject to the following: filed with, or Order issued by, the Court, as follows:

(A) **State's Required Disclosure.**

The State shall disclose to the Defendant ~~Defense~~ the following material and information within its possession or control on or before thirty (30) days from the date of such request: ~~initial hearing of the Defendant:~~

1. The names and last known addresses of persons whom the State may call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements and a list of memoranda reporting or summarizing their oral statements.
2. Any written or recorded statements and the substance of any oral statements made by the Defendant ~~accused~~ or by a codefendants, and a list of witnesses to the making and acknowledgment of such statements.
3. A transcript of those portions of grand jury minutes containing testimony of persons whom the State ~~prosecuting attorney~~ may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of the testimony.
4. Any reports or statements of experts, made in connection with the ~~particular~~ case, including the results of physical or mental examinations, ~~and of~~ scientific tests, experiments or comparisons.
5. Any books, papers, documents, photographs or tangible objects which the State ~~prosecuting attorney~~ intends to use in the hearing or trial or which were obtained from or belong to the ~~accused~~. Defendant or which the State intends to use at the hearing or trial.
6. ~~Any~~ The record of prior criminal convictions of the Defendant and any persons whom the State intends to call as a witness at a hearing or trial, which criminal record(s) shall be provided to the Defendant or his counsel on or before the date of the final pre-trial conference (or at least 20 days prior to the hearing or trial if there is no final pre-trial conference). may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
7. Any evidence which tends to negate the guilt of the Defendant ~~accused~~ as to the offense charged or which would tend to mitigate the ~~accused's~~ Defendant's sentence if convicted. ~~punishment.~~
8. ~~Any Evidence Rule 404(b) evidence.~~

The State may comply with this Order (1) in any manner it and the ~~Defense~~ Defendant may agree to, or (2) by providing to the Defendant the ~~notifying defense counsel that~~ material and information required by this rule, or (3) by notifying the Defendant that the material and information, described in general terms, may be inspected, obtained, tested, copied, or photographed at specified reasonable times and places.

(B) Defendant's Required Disclosure

The ~~Defense~~ Defendant shall disclose to the State the following material and information within its possession or control on or before omnibus date

1. The names and addresses of persons whom the defendant may call as witnesses.
2. Any books, papers, documents, photographs, or tangible objects which are intended to be used at a hearing or trial.
3. Any medical or scientific reports relating to the defendant or defendant's evidence which may be used at a hearing or trial.
4. ~~Any defenses, procedural or substantive, which the defendant intends to make at a hearing or a trial.~~

(C) ~~Objections to Discovery Order~~ Discovery Deadlines

Except as may otherwise be ordered by the Court or otherwise provided for by this rule, discovery shall be provided within thirty (30) days of such request.

(A) Objections to Discovery Order

Any objections to the discovery order shall ~~must~~ be filed on or before such discovery is due, within fourteen (14) days prior to omnibus date

(E) Certificate of Compliance Required, Deadline

The State and the Defendant shall file with the Court Certificate of Compliance ~~with the Order~~ on or before the final pretrial conference.

(F) Continuing Discovery Required

1. Discovery is a continuing order through trial, and any discoverable material or information that comes to light by a party after discovery is initially provided or due shall be produced to the other party forthwith.
2. ~~No written motion is required except to compel discovery, for a protective order, or for an extension of time~~

(G) Sanctions

The ~~F~~failure of either the State or the Defendant side to comply in a timely manner with the requirements of this rule of any orders entered with regard to discovery ~~with this Order within fourteen (14) days before trial~~ may result in exclusion of evidence at trial or the imposition of other appropriate sanctions.

LR57-CR 2.2-1 Initial Criminal Case Assignment

The Prosecuting Attorney of Noble County shall file cases according to the classification of the highest level of offense charged in the information or indictment. If the highest level of offense charged is murder, capital murder, Class A felony, or Class D felony, the case shall be filed in the Noble Superior Court, Div. 1. If the highest level of offense charged is a Class B felony or a Class C felony, the case shall be filed in the Noble Circuit Court. If the highest level of offense charged is a misdemeanor or infraction, the case shall be filed in the Noble Superior Court, Div. 2.